

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT GENOVESE,

Plaintiff

08CV03191 (SAS)(MJM)

-against-

ANSWER

THE LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR"), s/h/a LONG ISLAND RAILROAD COMPANY, by its attorney, MARK D. HOFFER, ESQ., answering the verified complaint of plaintiff, alleges, upon information and belief, as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" and refers all questions of law to this Court for its determination.

2. Denies the allegations contained in paragraph "3" except admits that at all times herein mentioned, the defendant has and still is doing business in the County of New York, State of New York.

3. Denies the allegations contained in paragraph "5" except admits that on May 5, 2005 and at all time hereinafter mentioned the defendant employed the plaintiff.

4. Denies the allegations contained in paragraphs "7", "8", "9" and "10" of the plaintiff's complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

5. Any injuries suffered by plaintiff were caused solely by his own negligence and

not by any negligence of the answering defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

6. Any injuries suffered by plaintiff were caused, in part, by his own negligence, and any recovery by plaintiff must be diminished in proportion to that part of his injuries attributable to his own negligence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

7. Any injuries suffered by plaintiff were not caused by a negligent act or omission of the answering defendant or any individual acting under its direction or control.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

8. Plaintiff failed to mitigate or otherwise act to lessen or reduce the damages alleged in the Complaint.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

9. The Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

10. Defendant alleges that the plaintiff received remuneration and/or compensation for some or all of his claimed economic loss and that the defendant is entitled to have plaintiff's award, if any, reduced by the amount of that remuneration and/or compensation, pursuant to Section 4545(c) of the Civil Practice Law and Rules.

WHEREFORE, defendant demands just of this Court dismissing the action in its entirety plus the costs and disbursements of the action.

Dated: Jamaica, NY
April 24, 2008

Yours, etc.,

MARK D. HOFFER

Vice President/General Counsel & Secretary

Attorney for Defendant

By: 
Karla R. Alston (KA6778)

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TO: SABLE & GOLD
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